

**IN THE COURT OF SENIOR CIVIL JUDGE AND
JMFC, KALAGHATAGI**

PRESENT

**SRI. RAVINDRA L. HONOLE, B.A., LL.B. (Spl)
SENIOR CIVIL JUDGE AND JMFC, KALAGHATAGI**

DATED THIS 16th DAY OF SEPTEMBER 2025
R.A. No.14/2024

Appellants:

Manjayya S/o Somayya Pujar and others

(Sri. A.C.C., Adv)

Vs

Respondents:

Smt. Kamalavva W/o Ishwarayya Pujar
and others

(R-1,2- Sri.R.B.H., Adv)

(R-3 -Absent)

(R-4 & 5- E/C)

PARTIES TO I.A.No.1

Applicants :

Manjayya S/o Somayya Pujar and others

Vs

Opponents:

Smt. Kamalavva W/o Ishwarayya Pujar
and others

ORDER ON I.A NO.1

The appellants/defendant No.4 to 6 have filed this application u/sec 5 of Limitation Act for condoning delay of 240 days in filing appeal.

2. Application is supported by the affidavit sworn to by the appellant No.3 wherein it is contended that his brother was suffering from ill-health and he was taking care. They are the agriculturists and busy in their work and they are also facing financial crises, therefore, unable to contact their counsel within time. The delay caused is not intentional nor deliberate. If the delay is not condoned they will be put into injustice, therefore, prays for allowing the application and condone the delay.

3. The respondents have filed objections denying the contents of application are false, frivolous. It is submitted that the documents produced by the appellants are recent documents and decree was passed on 29.11.2023. It is submitted that they have filed FDP No.09/2024 when the notice was issued they have filed this appeal. The intention of appellants is to delay the final decree proceedings and to harass the respondents, therefore, prays for dismissal of application with cost.

4. The appellant No.3 was stepped into box and got examined as PW.1. In support his case got marked documents as Ex.P.1 to 12 and closed their side. The respondents have not adduced evidence.

5. Heard the arguments.

6. The following points arise for my consideration as under:

1. Whether the appellants have made out sufficient grounds to condone the delay of 240 days in filing the appeal?

2. What order?

7. My findings on the above points are:

POINT No.1 : In the Affirmative

POINT No.2 : As per the final order for the following:

REASONS

8. **POINT No.1** : Applicants/defendant No.4 to 6 have challenged the judgment and decree passed in O.S.No.135/2011 dated 29.11.2023. Along with appeal this application is filed for condoning delay of 240 days in filing the appeal. It is contended that from 2021 appellant No.1 was suffering from ill-health and they are agriculturists and busy in their work and also suffering financial crises. In support of their case

petitioners have produced Ex.P.1 to 12. The prescriptions forms, discharge summary, OPD card, ER record, OPD card, pertaining to appellant No.3 and appellant No.2. Appellant No.2 was undergone surgery. It is prove that all the medical reports produced by the appellants are from May-2024. The appellnt No.2 and 3 are suffering from ill-health and they are taking treatment.

9. Learned counsel for respondent relied the decision of Hon'ble Supreme Court of India in the case of Special Leave Petition © diary No.48636 of 2024 and argued that the delay is to be explained right from the time when the limitation starts and there is delay without explanation appeal is liable to be dismissed. Therefore, it is submitted that the appellants have not explained delay from the date of right to accrue till May-2024. The documents produced by the appellants are not believable and acceptable. Hence, prays for dismissal of application and appeal.

10. The appellants have applied certified copy on 05.06.2024 received on 10.06.2024 and appeal is filed on 02.09.2024. There was delay of 240 days in filing the appeal. The appellants have challenged the judgment and decree of trial court. The appellants are the aggrieved by the judgment and decree.

11. I have gone through the decision of Hon'ble Supreme Court of India in SLP (Civil) No.24443/2024 and decision of Hon'ble High Court of Karnataka, Bangluru in RSA No.122/2024 dated 05.11.2024. The Hon'ble Supreme Court held that, the courts should not adopt when injustice oriented approach in dealing with the application for condonation of delay in filing appeal and rather follow a pragmatic line advance substantial justice. In catena of decision Hon'ble Supreme Court held that, delay is to be liberally condoned. If the application is rejected on technical ground of delay and if the appeal is not heard on merit no purpose will be served. In order to give opportunity to the appellants put forth their plea it is just and necessary to condone the delay in filing appeal.

Therefore, I am of the considered opinion that applicants/ appellants have made out sufficient grounds to condone the delay caused in filing the appeal. However, cost is to be imposed on appellants in condoning the delay which will meet the ends of justice. Hence, I answer the Point No.1 in the Affirmative.

12. **POINT No.2**: As discussed above, I proceed to pass the following:

ORDER

Application filed by the Applicants/ Appellants U/sec. 5 of Limitation Act is hereby allowed.

The delay of 240 days caused in filing the appeal is hereby condoned subject to payment of cost of Rs.2000/- to be paid to the respondent No.1 and 2.

(Order is dictated to stenographer directly on computer, typed by him, then corrected, printed and pronounced in the open court on this 16th day of September 2025)

(R.L.HONOLE)
SR.CIVIL JUDGE & JMFC,
KALAGHATAGI